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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
-----x

3 UNITED STATES OF AMERICA,

4 v.

19 Cr. 00704 (SDA)

5 BRANDON BECKER,

6 Plea

7 Defendant.
-----x

8 New York, N.Y.
9 August 30, 2024
10 12:00 p.m.

11 Before:

12 HON. STEWART D. AARON,

13 U.S. Magistrate Judge

14 APPEARANCES

15 DAMIAN WILLIAMS
16 United States Attorney for the
Southern District of New York
17 VLADISLAV VAINBERG
Assistant United States Attorney

18 MICHAEL GIORDANO
19 BOBBI C. STERNHEIM, appearing telephonically
Attorneys for Defendant

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1 (Case called.)

2 THE DEPUTY CLERK: Counsel, please state your
3 appearances.

4 MR. VAINBERG: Good afternoon, your Honor. Vlad
5 Vainberg for the United States.

6 MR. GIORDANO: Michael Giordano from Fasulo Giordano &
7 DiMaggio for Mr. Becker, who is present to my right. Good
8 afternoon, your Honor.

9 THE DEFENDANT: Good afternoon, your Honor.

10 THE COURT: Good afternoon.

11 THE DEFENDANT: Thank you for your time, everybody.

12 THE COURT: I'll just note for the record we have
13 Ms. Sternheim participating by telephone.

14 MS. STERNHEIM: That is correct, your Honor. Thank
15 you.

16 THE COURT: All right. So I understand we're here for
17 purposes of Mr. Becker entering a plea.

18 Is that right?

19 MR. VAINBERG: Yes, your Honor.

20 MR. GIORDANO: Yes, your Honor.

21 THE COURT: Mr. Becker, I have before me a document
22 entitled Consent to Proceed Before a United States Magistrate
23 Judge on a Felony Plea Allocution. That form says that you
24 know you have the right to have your plea taken by a United
25 States District Judge, but you're agreeing to have a plea taken

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1 by a United States Magistrate Judge.

2 As a magistrate judge, I have the authority to take
3 the plea by your consent, and you'll still be entitled to all
4 the same rights and protections as if you were before a
5 district judge, among other things, if you're found guilty, to
6 be sentenced by the district judge.

7 Let me ask you, did you sign this consent to proceed
8 form voluntarily?

9 THE DEFENDANT: Yes.

10 THE COURT: Before you signed the form, did your
11 lawyer explain it to you?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Do you wish to proceed with your plea
14 before me, a United States Magistrate Judge?

15 THE DEFENDANT: Yes, I do. Yes, I do.

16 THE COURT: All right. I'm accepting the consent form
17 and I'm affixing my signature to the document to reflect that.

18 I'll now ask my deputy to please swear in Mr. Becker.

19 THE DEPUTY CLERK: Please raise your right hand.

20 (Defendant sworn.)

21 THE DEPUTY CLERK: Thank you.

22 THE COURT: Mr. Becker, the purpose of this proceeding
23 is to make sure you understand your rights to decide whether
24 you're pleading guilty of your own free will, and to make sure
25 you're pleading guilty because you are guilty and not for some

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1 other reason.

2 Do you understand?

3 THE DEFENDANT: I do.

4 THE COURT: All right. Now I'm going to ask you
5 certain questions. It's very important you answer these
6 questions honestly and completely. If you don't understand any
7 of the questions or if you want time to consult with your
8 lawyer, please say so, because it is important you understand
9 every question before you answer. Okay?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: All right. What is your full name?

12 THE DEFENDANT: Brandon Arllen Becker.

13 THE COURT: How old are you?

14 THE DEFENDANT: 53.

15 THE COURT: Can you read and write in English?

16 THE DEFENDANT: Yes.

17 THE COURT: What was the highest grade in school that
18 you completed?

19 THE DEFENDANT: High school. All the way through.
20 High school.

21 THE COURT: Are you currently or have you recently
22 been under the care of a doctor or mental health professional
23 for any reason?

24 THE DEFENDANT: No.

25 THE COURT: Are you under the influence of any drug or

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1 alcohol today?

2 THE DEFENDANT: Not today.

3 THE COURT: When was the last time you ingested any
4 drug or alcohol?

5 THE DEFENDANT: No drugs at all. Just, you know, in
6 flight, you know, on the airplane, on the way here, rapidly.

7 THE COURT: You're talking about you drank alcohol on
8 the plane?

9 THE DEFENDANT: Yeah, on the way here, on the plane,
10 which was last night.

11 THE COURT: Got it.

12 THE DEFENDANT: Not a lot. Just one or two drinks.

13 THE COURT: Understood.

14 How are you feeling physically today?

15 THE DEFENDANT: I'm feeling extremely stressed out.

16 This is a hard process, because, you know -- I'm told it's the
17 best choice I could have. So I'm very, very upset, but it's an
18 awful situation. I want to apologize to the Court about my
19 indecision, but I don't think I have any better option, so --

20 THE COURT: Well --

21 THE DEFENDANT: I'm just answering your question,
22 being straight forward. I'm here to just plead, and, you know,
23 I'm fine. I can make a decision. I do question the magistrate
24 judge being not the judge -- the judge on the case. I could
25 step away and ask him what the difference is. I don't

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1 understand that, but --

2 THE COURT: Absolutely.

3 MR. GIORDANO: Your Honor, may I have a moment?

4 THE COURT: Yes.

5 MR. GIORDANO: Thank you.

6 THE DEFENDANT: Excuse me.

7 (Pause in proceedings.)

8 THE DEFENDANT: My apologies, your Honor, for wasting
9 any more time.

10 THE COURT: All right. So you do understand now from
11 your lawyer what the difference is between a magistrate judge
12 and a district judge and the ramifications of signing the
13 consent form that you signed?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: All right. Have you had sufficient time
16 to discuss the charges against you in your plea with your
17 attorneys?

18 THE DEFENDANT: I've had that, yes. Correct.

19 THE COURT: Have you been satisfied with the advice
20 and counsel that has been provided to you by your attorneys?

21 THE DEFENDANT: Yes.

22 THE COURT: Are you ready to enter a plea today?

23 THE DEFENDANT: I am.

24 THE COURT: All right. Does either counsel have
25 objections to defendant's competence to plead at this time?

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1 MR. VAINBERG: No, your Honor.

2 MR. GIORDANO: No, your Honor.

3 THE COURT: All right. Mr. Becker, in order to
4 determine whether your plea is voluntary and made with a full
5 understanding of the charges against you and the consequences
6 of your plea, I'm going to make certain statements to you and
7 I'm going to ask you certain questions. I want you to
8 understand that I need not accept your plea unless I am
9 satisfied that you are, in fact, guilty and that you fully
10 understand your rights.

11 The plea agreement states that you're going to plead
12 guilty to Count One of the superseding indictment. Count One
13 charges you with conspiracy to commit wire fraud and bank fraud
14 from at least in or about 2012 through at least in or about
15 2015 in the Southern District of New York and elsewhere in
16 violation of Title 18, United States Code, section 1349.

17 Count One carries a maximum sentence of imprisonment
18 of 30 years; a maximum term of supervised release of five
19 years; a maximum fine pursuant to Title 18, United States Code,
20 sections 3571 and 1344 of a million dollars, twice the gross
21 pecuniary gain derived from the offense, or twice the gross
22 pecuniary loss to persons other than yourself as a result of
23 the offense; and a \$100 mandatory special assessment. In
24 addition, the Court must order restitution.

25 Do you understand that that is the -- what I just

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1 stated is the crime to which you're pleading and the maximum
2 minimum penalties applicable to that crime?

3 THE DEFENDANT: I do have a question if you don't
4 mind.

5 THE COURT: You're asking to consult with your lawyer,
6 and the answer is of course you can.

7 MR. GIORDANO: Thank you, your Honor.

8 THE DEFENDANT: Yes, your Honor, if you don't mind.

9 (Pause in proceedings.)

10 THE DEFENDANT: I'm ready to proceed. Sorry.

11 THE COURT: All right. So just to go back, I had
12 explained to you what Count One charged you with, as well as
13 the maximum, minimum penalties applicable to that crime.

14 Did you understand what I stated?

15 THE DEFENDANT: Yes.

16 THE COURT: Now, I mentioned the term "supervised
17 release." What that means is you'll be supervised for a period
18 of years after release from prison. There will be conditions
19 with which you must obey. If you don't, you could be sent to
20 prison without a jury trial.

21 Do you understand that?

22 THE DEFENDANT: Yes, I do, your Honor.

23 THE COURT: Do you also understand that, as part of
24 your plea agreement, to admit to the forfeiture allegation with
25 respect to Count One of the indictment?

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1 THE DEFENDANT: Yes.

2 THE COURT: You have agreed to forfeit to the United
3 States, pursuant to 18, U.S.C., section 982(a)(2)(A) a sum of
4 money equal to \$11,405,964 in United States currency,
5 representing proceeds traceable to the commission of the
6 offense.

7 Do you understand that?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: You consented to the entry of a consent
10 preliminary order of forfeiture/money judgment, and you signed
11 that document, correct?

12 THE DEFENDANT: I did. Correct.

13 THE COURT: Do you also understand that any forfeiture
14 of your assets shall not be treated as satisfaction of any
15 fine, restitution, costs of imprisonment, or any other penalty
16 the Court may impose upon you in addition to forfeiture?

17 THE DEFENDANT: I understand that.

18 THE COURT: You've also agreed to make restitution in
19 the amount of \$1,910,600.05 in accordance with 18, U.S.C.,
20 sections 3663, 3663(a), and 3664. That amount is to be paid
21 according to a plan established by the Court. You also have
22 agreed that the obligation to make restitution shall be made a
23 condition of probation or of supervised release, as the case
24 may be, and that you'll be given credit against the restitution
25 amount for any payments made prior to sentencing, as verified

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1 by the United States Attorney's Office.

2 Do you understand that?

3 THE DEFENDANT: I do. I was explained that by
4 counsel.

5 THE COURT: All right. Mr. Becker, what country are
6 you a citizen of?

7 THE DEFENDANT: The United States.

8 THE COURT: You should know if you're not a citizen of
9 the United States, then your guilty plea and conviction make it
10 very likely that your deportation from the United States is
11 presumptively mandatory, and that at minimum you are at risk of
12 be deported and suffering other adverse immigration
13 consequences.

14 Do you understand that?

15 THE DEFENDANT: I do, your Honor.

16 THE COURT: Have you discussed the possible
17 immigration consequences of your guilty plea and conviction
18 with your lawyer?

19 THE DEFENDANT: Yes.

20 THE COURT: Am I correct you wish to plead guilty
21 regardless of any immigration consequences that may result?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Do you understand the charges against you
24 and the consequences of pleading guilty?

25 THE DEFENDANT: I do. I understand.

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1 THE COURT: All right. Do you understand that in
2 exchange for your plea, the United States Attorney's Office has
3 agreed not to criminally prosecute you further for conspiring
4 to commit wire fraud and bank fraud between in and/or about
5 2012 and in and/or about 2015 in connection with your
6 participation in a scheme in which CardReady, LLC, and its
7 employees and agents falsified, submitted multiple shell
8 merchant account applications to one or more banks, processing
9 companies, independent sales organizations, and their agents,
10 including an independent sales organization with headquarters
11 in New York City, in order to fraudulently obtain credit or
12 debit card processing services as charged in Count One of the
13 superseding indictment?

14 THE DEFENDANT: Yes, I understand.

15 THE COURT: Do you understand that the United States
16 Attorney cannot make any promises to you about criminal tax
17 violations?

18 THE DEFENDANT: I do understand that.

19 THE COURT: Do you understand that in exchange for
20 your plea, the plea agreement does not bar the use of your
21 conduct as a predicate act or as the basis for a sentencing
22 enhancement in any subsequent prosecution?

23 THE DEFENDANT: I understand that as well.

24 THE COURT: Do you agree that with respect to any and
25 all dismissed charges you are not a prevailing party within the

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1 meaning of the Hyde Amendment and you will not file any claim
2 under that law?

3 THE DEFENDANT: I need to refer to counsel. I don't
4 understand.

5 THE COURT: Okay. So we're going to take a brief
6 pause to have your attorney explain it to you. It is something
7 that's mentioned in the plea agreement, but I want your
8 attorney to explain it to you so you fully understand.

9 THE DEFENDANT: Thank you, your Honor. I'll be very
10 quick.

11 (Pause in proceedings.)

12 THE DEFENDANT: Excuse me. Your Honor, we're ready to
13 proceed.

14 THE COURT: All right. So I'll just repeat the
15 question.

16 Do you agree that with respect to any and all
17 dismissed charges you are not a prevailing party within the
18 meaning of the Hyde Amendment, and you will not file any claim
19 under that law?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: Do you understand you have the right to
22 plead not guilty and the right to a trial on the charges
23 against you and, in fact, a trial by jury?

24 THE DEFENDANT: I understand.

25 THE COURT: All right. I'm now going to ask the

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1 Assistant United States Attorney to state the elements of the
2 crime charged, the elements of the things the government would
3 have to prove beyond a reasonable doubt if this case were to
4 have gone to trial.

5 MR. VAINBERG: With the Court's permission, I'm going
6 to recite the elements of Count One, which is the conspiracy
7 and the underlying wire fraud and bank fraud objects of that
8 conspiracy.

9 Count One of the indictment charges Mr. Becker with
10 conspiracy to commit wire fraud and bank fraud in violation of
11 section 1349 of Title 18 of the United States Code. That
12 conspiracy has two elements:

13 First, that two or more persons in some way or manner
14 agreed to try to accomplish a common and unlawful plan to
15 commit a fraud crime, here wire fraud and bank fraud, as
16 charged in the indictment;

17 And, second, the defendant knew the unlawful purpose
18 of the plan, and willfully joined in it during the time period
19 charged in the indictment.

20 One of the objects of the conspiracy was wire fraud,
21 in violation of section 1343 of Title 18. Wire fraud has three
22 elements:

23 First, there was a scheme or artifice to defraud or to
24 obtain money or property by materially false and fraudulent
25 pretences, representations or promises;

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1 Second, the defendant knowingly and willfully
2 participated in the scheme or artifice to defraud with
3 knowledge of its fraudulent nature and with specific intent to
4 defraud;

5 And, third, that in execution of that scheme, the
6 defendant used or caused the use of the mail or interstate
7 wires, in this case wires, between California, where CardReady
8 and Mr. Becker were located, and the company known as a New
9 York ISO in the indictment, which was located in Manhattan.

10 The second object of the conspiracy was bank fraud in
11 violation of section 1344. That crime also has three elements:

12 First, there was a scheme to defraud a financial
13 institution or to obtain money or funds owned or under the
14 custody or control of a financial institution by means of
15 materially false or fraudulent pretenses, representations or
16 promises;

17 Second, the defendant executed or attempted to execute
18 the scheme with the intent to defraud a financial institution,
19 or with the intent to obtain money or funds owned or under the
20 custody or control of the financial institution;

21 And, third, at the time of the execution of the
22 scheme, the financial institution had its deposits insured by
23 the FDIC. In this case, the bank which received the fraudulent
24 merchant applications was Wells Fargo, an FDIC insured bank.

25 THE COURT: Mr. Becker, do you understand if you pled

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1 not guilty and went to trial, the burden would be on the
2 government to prove each and every element of the crime charged
3 beyond a reasonable doubt in order to convict you?

4 THE DEFENDANT: I understand.

5 THE COURT: Do you understand you have the right to be
6 represented by counsel, and, if necessary, have the Court
7 appoint counsel at trial and at every other stage of the
8 proceeding?

9 THE DEFENDANT: I understand.

10 THE COURT: Do you understand that at trial you'd have
11 the right to confront and cross-examine witnesses against you
12 and the right not to be compelled to incriminate yourself?

13 THE DEFENDANT: I do understand that.

14 THE COURT: Do you understand that at trial you'd be
15 presumed innocent until such time, if ever, the government
16 established your guilt by competent evidence to the
17 satisfaction of the trier of fact beyond a reasonable doubt?

18 THE DEFENDANT: I understand that.

19 THE COURT: Do you understand that at trial you'd have
20 the right to testify and you would also be entitled to
21 compulsory process, in other words, the right to call witnesses
22 on your own behalf?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: Do you understand that if your plea is
25 accepted, there will be no further trial of any kind, so by

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1 pleading guilty, you're waiving your right to trial?

2 THE DEFENDANT: I understand that.

3 THE COURT: Do you understand that any statements you
4 make here today under oath may be used against you in a
5 prosecution for perjury or for making false statements?

6 THE DEFENDANT: I understand that as well.

7 THE COURT: Failing to tell the truth today in this
8 proceeding is a crime.

9 Do you understand?

10 THE DEFENDANT: I do.

11 THE COURT: All right. So I have before me the plea
12 agreement. It's dated August 22, 2024, and it was signed by
13 you today.

14 Am I correct that you signed this document?

15 THE DEFENDANT: You are correct, your Honor.

16 THE COURT: Did you read the agreement before you
17 signed it?

18 THE DEFENDANT: I did, and it was explained by my
19 counsel.

20 THE COURT: That was going to be my next question.

21 You did discuss it with your attorney before you
22 signed it?

23 THE DEFENDANT: Yes, I did, your Honor.

24 THE COURT: All right. Now, putting the plea
25 agreement to one side, separate and apart from the plea

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1 agreement, have any threats or promises been made to you to
2 make you plead guilty?

3 THE DEFENDANT: No, there's nothing like that.

4 THE COURT: Is anyone forcing you to plead guilty?

5 THE DEFENDANT: They're not.

6 THE COURT: Separate and apart from the plea
7 agreement, have any understandings or promises been made to you
8 about the sentence that you'll receive?

9 THE DEFENDANT: There has been none, no.

10 THE COURT: Is your plea voluntarily, in other words,
11 being made of your own free will?

12 THE DEFENDANT: Yes.

13 THE COURT: All right. I'm now going to review
14 certain portions of your plea agreement with you.

15 It states that you and the government have reached
16 agreement regarding the appropriate calculation of your
17 sentence under a part of our law known as the sentencing
18 guidelines, and that the stipulated sentencing range is from
19 108 to 135 months' imprisonment.

20 Do you understand that?

21 THE DEFENDANT: Yes. I was given that information,
22 your Honor.

23 THE COURT: The agreement also states that you and the
24 government have agreed that the applicable fine range is
25 \$30,000 to \$300,000.

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1 Do you understand that?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Do you understand that neither the
4 probation office nor the Court is bound by the guidelines
5 stipulations and the sentence to be imposed upon you will be
6 determined solely by the Court?

7 THE DEFENDANT: I do understand that.

8 THE COURT: Now, in imposing a sentence upon you, the
9 Court is obligated to calculate the applicable sentencing
10 guideline range in determining a sentence range, including
11 other sentencing factors that are set forth in Title 18, United
12 States Code, section 3553(a).

13 Do you understand that?

14 THE DEFENDANT: Give me one moment, please, sir?

15 THE COURT: Sure.

16 (Pause in proceedings.)

17 THE DEFENDANT: Yes, I do understand. It was
18 clarified. Yes.

19 THE COURT: All right. Do you understand you've
20 agreed not to file a direct appeal or otherwise challenge your
21 conviction if you're sentenced in or below the sentencing --
22 the stipulated guidelines range?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: Do you understand you've agreed to waive
25 your right to appeal any term of supervised release that is

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1 less than or equal to the statutory maximum?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Do you understand you've agreed to waive
4 your right to appeal any fine that is less than or equal to
5 \$300,000?

6 THE DEFENDANT: I understand.

7 THE COURT: In light of the foregoing, how do you
8 plead?

9 THE DEFENDANT: Guilty.

10 THE COURT: Are you pleading guilty because you are,
11 in fact, guilty?

12 THE DEFENDANT: Yes.

13 THE COURT: Do you understand that the plea agreement
14 does not bind any prosecuting office other than the United
15 States Attorney's Office for the Southern District of New York?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: Do you understand that apart from any
18 proffer agreements you may have entered into with the
19 government, the plea agreement takes the place of any prior
20 understanding you may have had with the government and that the
21 plea agreement cannot be modified except in a writing signed by
22 all parties?

23 THE DEFENDANT: I understand, yes.

24 THE COURT: Do you understand that if your conviction
25 following your plea of guilty is vacated for any reason, then

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1 the government is not time barred and if the cause of action is
2 not time barred as of the date you signed the agreement, the
3 government can reinstate its prosecution against you?

4 THE DEFENDANT: Give me one moment, your Honor,
5 please?

6 THE COURT: Sure.

7 (Pause in proceedings.)

8 THE DEFENDANT: I understand. Yes, your Honor.

9 THE COURT: Mr. Becker, did you commit the offense to
10 which you're pleading?

11 THE DEFENDANT: Yes, I did.

12 THE COURT: Please tell me in your own words what you
13 did.

14 THE DEFENDANT: I agreed and I participated with
15 others to submit merchant applications and misrepresentations
16 to banks in order to obtain credit card approvals for money
17 acceptance and money processing. I'm looking at a piece of
18 paper. I'd like to add a little more on the record. It is,
19 again, that all this was to help merchants accept credit card
20 processing. I knew the misrepresentations were false. In
21 saying that, I didn't believe it was -- you know, it was a
22 wrong practice, but that's what it is. This occurred between
23 2012 and 2015 in the Southern District of New York, and
24 possibly elsewhere, where I knew it was wrongdoing and, again,
25 possibly against the law, but I can say that, you know, it is

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1 against the law.

2 THE COURT: Well, let me ask you this. Did you know
3 at the time you committed these acts that what you were doing
4 was wrong and against the law?

5 THE DEFENDANT: No, I didn't believe it was wrong at
6 the time. I do believe that I was under -- I was told that it
7 is against the law, and this is the -- this is -- you know, I
8 have to plead guilty because this is -- there's a fact-based
9 argument that is saying that you cannot, you know, submit
10 documents that are otherwise completely legitimate or know
11 about it or be the CEO of a company. So I said I'll agree to
12 these terms.

13 So, yes, I'm pleading guilty to all of it, because
14 ultimately I was the CEO of the company, and I want to tell the
15 Court that, you know, I'm sorry and I didn't -- I didn't
16 believe it was really -- I would never do such a thing if I
17 knew the law, you know -- but, at the end of the day, I'm here,
18 I am pleading guilty to whatever is being, you know, offered,
19 and I understand everything. So I get on the record that --
20 that -- so, you know, I knew what I was doing was wrong and it
21 was against the law, to make things easy.

22 MR. GIORDANO: Your Honor, may I have a moment?

23 THE COURT: Is this defense counsel who wants to
24 speak?

25 MR. GIORDANO: Yes, your Honor. May I have a moment?

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1 THE COURT: Yes.

2 MR. GIORDANO: Do you mind if I step out for a second?

3 THE COURT: Yes.

4 MR. GIORDANO: Thank you.

5 (Recess taken.)

6 THE COURT: All right. We're back on the record.

7 MR. GIORDANO: Your Honor, thank you for the
8 opportunity to discuss with my client.

9 After our conversation, I believe he would like the
10 opportunity to amend some of the previous statements he just
11 made, and I'll let him put it in his own words if it's all
12 right with the Court.

13 THE COURT: Okay. I'll just need you to speak into
14 the microphone, Mr. Becker.

15 THE DEFENDANT: Yes, your Honor.

16 I apologize for wasting the Court's valuable time. I
17 did not understand the form in which I could discuss my
18 thoughts and everything else. I'm ready to proceed on the
19 plea, and then continue with the process exactly as stated with
20 my mind in perfect order, you know. And I'm sorry, and I, you
21 know, have a lot of regret already. That's it. But this is
22 hard of course, but I'm ready to continue on with the process
23 of, you know, pleading guilty, so -- which I have to -- I am,
24 so, you know, anyway --

25 THE COURT: Here's the question. I can only recommend

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1 to Judge Preska that the plea be accepted if you had the
2 requisite intent, mens rea, for the crime, and that you're
3 pleading to that. When I asked you the question, did you know
4 at the time you performed the acts that what you were doing was
5 wrong and against the law, you hedged. So I'll ask you that
6 question again.

7 Did you know at the time you committed the acts that
8 you spoke of that what you were doing was wrong and against the
9 law?

10 THE DEFENDANT: Yes, your Honor, I did. I made a
11 mistake. I'm super sorry. And I knew it was against the law.
12 I'm taking it. I'm taking it. I'm guilty.

13 THE COURT: The government wishes to be heard?

14 MR. VAINBERG: Your Honor, I would just recommend, as
15 a question to be posed to Mr. Becker, if -- two questions:
16 Whether he participated in a conspiracy to make
17 misrepresentations to a bank, and whether he knew that lying to
18 a bank was wrong.

19 THE COURT: Did you participate in a conspiracy to --

20 MR. VAINBERG: Make misrepresentations.

21 THE COURT: -- make misrepresentations to a bank?

22 THE DEFENDANT: The prosecution's correct. I did. He
23 completely -- yes. The answer is yes.

24 THE COURT: The second question was --

25 MR. VAINBERG: Did he know that lying to a bank was

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1 wrong.

2 THE COURT: Did you know that lying to a bank was
3 wrong?

4 THE DEFENDANT: Yes. I appreciate the ability to
5 respond. He's right. Yes, I knew it was wrong.

6 THE COURT: One of the questions I asked you earlier,
7 Mr. Becker, or one of the things I stated earlier, to be more
8 precise, was that I needed to make sure that you were pleading
9 guilty because you are guilty and not for some other reason.

10 Are you pleading guilty because you are guilty?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: You testified earlier or stated earlier
13 under oath that you were stressed and, if memory serves -- you
14 didn't use the word "pressure" -- one could discern from your
15 comments that you felt pressure.

16 Is that stress altering your ability to think
17 rationally with respect to accepting this plea?

18 THE DEFENDANT: No. It's straight forward. It's the
19 right thing to do, and I'm pleading guilty. Stress is an
20 element, but it's not -- it's natural, but it's not going to
21 change my decision on my guilty plea, your Honor.

22 THE COURT: Does the government have any other
23 questions it wishes me to put to Mr. Becker?

24 MR. VAINBERG: Just that -- I think Mr. Becker said
25 it, but just to be clear, that the conspiracy he talked about

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1 was the false statements to the banks resulted in an FDIC
2 insured bank processing millions of dollars of credit towards
3 accounts that were set up.

4 THE COURT: How do you respond to that question,
5 Mr. Becker?

6 THE DEFENDANT: I think the prosecution is accurate.

7 THE COURT: Let me ask the prosecution, if Mr. Becker
8 were not pleading guilty, what evidence would the government
9 proffer at trial as to his guilt?

10 MR. VAINBERG: Certainly, your Honor.

11 At trial, the government would prove that from at
12 least 2012 through in or about 2015, Mr. Becker was the CEO of
13 CardReady, LLC, a company that helped merchants obtain credit
14 card processing. The evidence would show that Mr. Becker
15 participated in a conspiracy with codefendants Steven Short and
16 other employees and agents at CardReady to create false
17 merchant applications and sham merchant accounts to be used by
18 co-defendant Short's telemarketing business.

19 The false applications concealed the true merchant,
20 which is Mr. Short's business, and, instead, presented as straw
21 owners so-called signers, which were people who did not
22 actually run the merchant's business and instead were being
23 paid a nominal amount to sign merchant applications. The false
24 applications were submitted to a New York City based company
25 named First Base Solutions, which was a processing partner of

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1 Wells Fargo Bank, an FDIC insured institution.

2 The scheme allowed Short's marketing business to
3 maintain access to the credit card processing system even as
4 the sham merchant accounts were continually shut down due to
5 customer complaints and charge backs. As a result of the
6 scheme, Wells Fargo processed over \$19 million of credit card
7 transactions across 26 sham merchant accounts between in or
8 about 2012 and 2015.

9 Now, at trial, the government will present as evidence
10 testimony from witnesses, including victims, signers, multiple
11 co-conspirators of Mr. Becker, who pleaded guilty to this
12 offense, processing company witnesses, and others. The
13 government would also present documentary evidence, including
14 the false merchant applications, emails from and to the
15 defendant about the false merchant accounts, text messages,
16 bank records, and processing records.

17 THE COURT: Mr. Becker, in light of all the foregoing,
18 do you still wish to plead guilty?

19 THE DEFENDANT: I do.

20 THE COURT: Why are you pleading guilty?

21 THE DEFENDANT: Because I'm guilty of every element he
22 just described over here, the prosecution described, your
23 Honor.

24 THE COURT: Let me ask defense counsel, do you know of
25 any reason why Mr. Becker ought not plead guilty?

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1 MR. GIORDANO: No, your Honor.

2 THE COURT: Having considered the entire record and
3 considering the statements just made by Mr. Becker, I am
4 satisfied that he understands the nature of the charges against
5 him and the consequences of his plea. The Court also is
6 satisfied that the plea is being made voluntarily and
7 knowingly, and that there's a factual basis for it.

8 Accordingly, I will recommend to Judge Preska that the
9 plea of guilty be accepted. I assume the government will order
10 a copy of the transcript and will submit it, together with any
11 additional paperwork, so that Judge Preska may act on my
12 recommendation?

13 MR. VAINBERG: Yes, your Honor.

14 THE COURT: Will the government deliver the case
15 summary for purposes of the presentence report to the probation
16 department within 14 days?

17 MR. VAINBERG: We will, your Honor.

18 THE COURT: Let me ask defense counsel, will you be
19 available to be interviewed by the probation department with
20 your client within 14 days?

21 MR. GIORDANO: Yes, your Honor.

22 THE COURT: Has a control date yet been set by Judge
23 Preska for sentencing?

24 MR. VAINBERG: Not yet, your Honor.

25 THE COURT: All right. So we'll set a control date of

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1 December 30th of this year.

2 Is there anything else from either side?

3 MR. VAINBERG: No, your Honor. The government is --
4 the bail conditions should continue in this case. The
5 government is not making any application to change the bail
6 conditions.

7 THE COURT: Okay. Anything else from the defense?

8 MR. GIORDANO: Nothing further, your Honor. Thank
9 you.

10 THE COURT: All right. This matter is adjourned.
11 Thank you.

12 THE DEFENDANT: Your Honor, thank you very much.

13 MR. VAINBERG: Thank you, your Honor.

14 (Adjourned)

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